

12205

PLM II



DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-195380

DATE: December 5, 1979

MATTER OF: Eric C. Nielsen

DIGEST: An employee on temporary duty to high cost geographical area (claimed and was reimbursed subsistence in an amount less than the area rate. Later he submitted) reclaim voucher with meal costs revised upward to equal the total he alleged he paid for food which amount approximated the maximum actual expense rate for the area of temporary duty. Claim may not be paid in absence of receipts; however, recoupment of amount paid on original voucher would not be appropriate since the agency has not found nor do the facts show that the claimant intended to defraud the Government.

Claim for

The issue presented in this case is whether an amount paid for reimbursement of travel expenses should be recouped where a supplemental voucher for the same travel expenses is presented with estimated meal costs revised upward. In the absence of a finding that the claimant by submitting the revised voucher intended to defraud the Government, the answer is no.

as to whether
The Naval Supply Center, Oakland, California, requested an advance decision in this matter and their request was forwarded by the Department of Defense Per Diem, Travel and Transportation Allowance Committee (PDTATAC Control No. 79-22).

An employee on duty to a high cost geographical area claimed.
Mr. Eric C. Nielsen was authorized travel for temporary duty for a period of 15 days from his official station at the Navy Rework Facility, Alameda, California, to Pomona, California, a high cost geographical area. That duty covered the period of September 18 through October 6, 1978, with Mr. Nielsen returning to his home on each of 2 weekends during that period. Mr. Nielsen submitted a voucher dated October 19, 1978, with the amount for reimbursement for food and lodging on an actual expense basis totaling \$386.60. This voucher was paid on October 26, 1978.

It was apparently brought to Mr. Nielsen's attention that his claim for lodging and subsistence was considerably less than the area rate and on November 17, 1979, he submitted a supplemental voucher claiming additional reimbursement based upon

*Y raised
Temporary duty exp. per diem allowance
Subsistence allowance
TSA*

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subsistence and lodging which totaled ~~\$628~~, or \$241.40 more than was claimed on the ~~October 19, 1978~~ voucher.)

The validity of the supplemental voucher was questioned and turned over to the Naval Investigative Service. ^{the original} The investigative report indicates that ~~Mr. Mercer~~ ^{the employee} admitted to increasing the meal section on his supplemental travel claim, but he said he approximated the amount of money spent for food while on temporary duty and divided that amount to reach the figure he claimed for food on a daily basis.

If fraud is suspected the claim obviously is of doubtful validity and the claimant should be left to his remedy in the Court of Claims.) In 57 Comp. Gen. 664 (1978) we discussed the rules applied to cases which are considered to be tainted with fraud. However, reasonable suspicions of fraud, which would support denial of claim or recoupment action in case of a paid voucher depends upon facts of each case. Particularly important is the finding of the agency concerned. If the agency does not find that fraud exists the facts evidencing fraud must be very clear in order to justify our treating the case as one involving fraud.

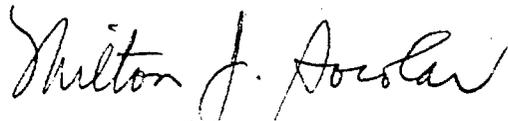
In considering whether an intent to defraud may have existed in this case we note that Pomona, California, is located in Los Angeles County which had been designated as a high cost geographical area where travel expenses were reimbursed on an actual expense basis up to a maximum of \$40 per day. (The original voucher of \$386.60 for lodging and meals averaged less than \$25 per day. The supplemental voucher, while not increasing the lodging costs, exceeded \$40 per day for lodging and meals.) Employees traveling in areas which are not designated as high cost areas are reimbursed on a commuted travel per diem basis. The per diem rate applicable in an individual case is computed on the traveler's average of the actual lodging costs plus a fixed amount for subsistence. Total reimbursement is on a commuted basis without regard to the actual cost of meals and other expenses. When travel is to high cost areas commuted per diem is not applicable and reimbursement is based on actual costs up to a given limit (\$40 in this case) but not subject to a minimum (i.e., only actual cost incurred may be paid even though this may be less than the normal per diem maximum).

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Based upon the Naval Investigative Service report, it was determined that there was insufficient evidence to initiate a criminal prosecution. Further, no determination that the claimant in fact intended to defraud the Government has been made by the Navy. ^(After a review) We have reviewed the investigation report and other materials furnished, including the papers relating to a grievance brought by the claimant ~~for the purpose of securing payment on his supplemental voucher.~~ ^{It was determined} On the basis thereof ~~it seems~~ that a lack of knowledge regarding the provisions relating to the Government's reimbursement of travel expenses rather than an intent to defraud caused the claimant to submit his original and supplemental vouchers. Apparently he did not understand the differences between reimbursement on an actual expense basis when traveling to high cost areas and reimbursement on the commuted per diem basis. Accordingly, the evidence does not justify treating the vouchers involved as fraudulent.

Regarding reimbursement for travel performed in this case the amounts for meals and other expenses on the original voucher appear to be reasonable. In this case we do not believe they should be questioned. However, in the absence of receipts or other evidence supporting the claimant's actual cost for meals, reimbursement of the added sums claimed on the supplemental voucher must be denied.)
56 Comp. Gen. 40 (1976).

The supplemental voucher will be retained in this Office.


For the Comptroller General
of the United States